

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

LINDA R. ROBINSON

PLAINTIFF

VS.

CIVIL ACTION NO. 3:21-cv-48-CWR-LGI

**JO-ANN STORES, LLC,
AND JOHN DOES 1 & 2**

DEFENDANTS

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Jo-Ann Stores, LLC, (“Defendant”) removes this cause to this Court pursuant to 28 U.S.C. §§1332, 1441, and 1446, and shows as follows:

1. On or about December 18, 2020, Plaintiff filed her Complaint styled as *Linda R. Robinson vs. Jo-Ann Stores, LLC and John Does 1 & 2*, Civil Action No. 20-4186, in the County Court of the First Judicial District of Hinds County, Mississippi. (Exhibit 1, *Complaint*).

2. Defendant was purportedly served on or about December 28, 2020. As a result, this removal is timely.

3. According to the Complaint, Plaintiff is an adult resident of Madison County, Mississippi. (Ex. 1 at ¶1).

4. Plaintiff asserted in her Complaint that Defendant is a foreign company registered to do business in the State of Mississippi. (Ex. 1, at ¶2). Defendant is a corporate citizen of the State of Ohio. Indeed, Defendant is a Ohio limited liability corporation, with its principal place of business in the state of Ohio, and with no members residing in Mississippi. Thus, diversity of citizenship exists in this case between Plaintiff and Defendant.

5. Plaintiff also named fictitious defendants identified as “John Does 1 & 2” in the Complaint. These fictitious defendants must also be disregarded for purposes of citizenship under

28 U.S.C. §1441(b).

6. The allegations in the Complaint make it facially apparent that the amount in controversy exceeds \$75,000.00, exclusive of interests and costs. Plaintiff's specific demand makes clear that Plaintiff seeks damages for physical injuries, pain and suffering, and mental and emotional distress. (Ex. 1, at ¶15). Additionally, Plaintiff seeks attorney's fees. (Ex. 1, at ¶19; *Wince v. Wal-Mart Stores, Inc.*, 373 F. Supp. 2d 670, 673 (S.D. Miss. 2005) ("If a party may recover attorney's fees, those fees are also to be included in the amount in controversy determination.")).

7. While Plaintiff declares that she will not seek damages in excess of \$200,000.00, she seeks both compensatory and punitive damages. (Ex. 1, at ¶¶4, 16-18; *Rish v. State Farm Fire and Cas. Co.*, 2008 WL 5105015 at *1 (S.D. Miss. 2008) ("Indeed, federal courts sitting in Mississippi have routinely held that unspecified claims for punitive damages sufficiently serve to bring the amount in controversy over the requisite jurisdiction threshold set out in 28 U.S. C. §1332.")). Thus, the amount in controversy undoubtedly exceeds \$75,000.00, exclusive of interests and cost.

8. For these reasons, the above-described action is a civil action in which this court has actual jurisdiction under the provisions of 28 U.S.C. §1332, since this action is a controversy wholly between citizens of different states, and the amount in controversy exceeds \$75,000.00 exclusive of interest and costs.

9. Finally, under the provisions of 28 U.S.C. § 1446(a) and L.U. Civ. R. 5(b), a copy of the entire record from the County Court of Hinds County, Mississippi will be provided within fourteen days of this Notice.

10. Defendant, after promptly filing this Notice of Removal, will give notice to all parties and to the Clerk of Hinds County Court, by filing a copy of this Notice of Removal with the County Court Clerk of Hinds County, Mississippi.

11. Defendant further reserves its right to amend and/or supplement this Notice of Removal as needed and as appropriate.

FOR THESE REASONS, Jo-Ann Stores, LLC, respectfully requests that this Court assume jurisdiction as required by law.

RESPECTFULLY SUBMITTED this the 25th day of January, 2021.

JO-ANN STORES, LLC

BY: /s/ Darryl A. Wilson

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CERTIFICATE OF SERVICE

I, hereby certify that I have this date mailed, postage prepaid, and/or hand delivered and/or served via electronic mail a copy of the foregoing to:

Tiffany Horton-Williams
Horton-Williams Law Firm, PLLC
P. O. Box 720653
Byram, MS 39272
attyhortonwilliams@gmail.com

Zack Wallace
Hind County Clerk
First Judicial District
P.O. Box 327
Jackson, MS 39205

THIS the 25th day of January, 2021.

/s/ Darryl A. Wilson
Darryl A. Wilson